

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

Tera Harris, *et al.*,

Plaintiffs,

v.

City of Portland, *et al.*,

Defendants.

3:11-cv-01037 -ST

FINDINGS AND
RECOMMENDATION

STEWART, Magistrate Judge:

FINDINGS

Plaintiff, Tera Harris (“Harris”), proceeding *in forma pauperis*, filed this action on August 26, 2011, alleging claims against the City of Portland and seven Portland police officers on behalf of herself and seven of her family members, including five minor children. Each of the three claims arises out of an incident on an unidentified date in which Harris alleges that the defendant officers entered and searched her home without probable cause or a search warrant, arrested and harassed her family, destroyed their property, killed the family pet, tasered her husband, then maliciously prosecuted members of her family, all of which caused various

economic, physical, and emotional injuries for which plaintiffs seek \$500,000 in compensatory damages and \$500,000 in punitive damages.

On September 28, 2011, this court appointed Robert S. Banks, Jr., as *pro bono* counsel for the limited purpose of reviewing and investigating Harris's claims and/or defenses. Order (docket # 8). On December 12, 2011, in his response to that Order (docket # 11), Banks stated that he had reviewed and investigated Harris's claims, provided a written report and recommendation to Harris, and, therefore, concluded his representation of Harris.

On December 13, 2011, this court extended the time for service until March 13, 2012 (docket # 12), and issued its initial Discovery and Pretrial Scheduling Order (docket # 13), both of which were returned as undeliverable ten days later (docket # 14). On March 15, 2012, this court ordered Harris to file a notice of change of address on or before April 16, 2012, or show cause in writing why this case should not be dismissed for lack of prosecution. This court sent the Order to Show Cause to Harris both at the address listed in her Complaint, as well as to an address Harris provided in another case previously pending in this court, but mailings to both addresses were returned as undeliverable (docket ## 16, 17 & 18). The discovery deadline has passed and Harris has failed to file anything further, including a response to this court's Order to Show Cause.

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RECOMMENDATION

Based on the above, this action should be DISMISSED without prejudice for failure to prosecute.

SCHEDULING ORDER

The Findings and Recommendation will be referred to a district judge. Objections, if any, are due Friday, May 04, 2012. If no objections are filed, then the Findings and Recommendation will go under advisement on that date.

If objections are filed, then a response is due within 14 days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendation will go under advisement.

NOTICE

This Findings and Recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any Notice of Appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of a judgment.

DATED April 17, 2012.

s/ Janice M. Stewart

Janice M. Stewart
United States Magistrate Judge